

## PHILIPPINES

The Philippines, with a population of 87 million, is a democratic republic with an elected president, an elected bicameral legislature, and a fractious but functioning multiparty system. The May 2004 national elections for president and both houses of congress continued to be a source of contention, and the political opposition called for the president's impeachment alleging election fraud and corruption. Civilian authorities generally maintained effective control of the security forces; however, some elements of the security forces committed human rights abuses.

The government generally respected the human rights of its citizens. However, pervasive weakness in the rule of law, official impunity, and the wide disparity between rich and poor contributed to cynicism about official justice. The constitutionally mandated Commission on Human Rights (CHR) described the Philippine National Police (PNP) as the worst abuser of human rights. The following human rights problems were reported:

- arbitrary, unlawful, and extrajudicial killings by elements of the security services; and political killings, including killings of journalists, by a variety of actors, which often go unpunished
- disappearances
- physical and psychological abuse of suspects and detainees and instances of torture
- arbitrary arrest and detention
- police, prosecutorial, and judicial corruption
- long delays in trials
- harsh prison conditions
- societal discrimination against Muslims
- harassment of some human rights and left-wing political activists by local military and police forces
- violence against women and abuse of children, as well as child prostitution, and trafficking in persons
- child labor, including underage domestic servants
- ineffective implementation and enforcement of worker rights

Violent clashes between government forces and communist insurgents and Islamic terrorists continued, but negotiations

with the remaining Muslim separatist movement made progress. The terrorist New People's Army (NPA), the military arm of the long-standing communist insurgency, continued to operate nationwide, and committed numerous human rights violations, including political assassinations, kidnappings, and torture. The terrorist Abu Sayyaf Group (ASG) bombed civilian targets, at times with the suspected involvement of the regional terrorist group Jemmah Islamiyah. Both the NPA and the ASG continued to use children both as soldiers and as noncombatants.

### **RESPECT FOR HUMAN RIGHTS**

#### **Section 1 Respect for the Integrity of the Person, Including Freedom From:**

##### **a. Arbitrary or Unlawful Deprivation of Life**

Police forces and antigovernment insurgents committed a number of arbitrary and unlawful killings. The nongovernmental organization (NGO) Task Force Detainees of the Philippines (TFDP) documented the summary execution of 9 individuals by government forces by year's end, compared with 11 in 2004. The CHR investigated 381 complaints of killings between January and September, compared with a total of 307 complaints of killings during 2004. The CHR included killings by antigovernment insurgents in its investigations, although the majority of the cases involved the security forces and local officials. The CHR suspected PNP members in a majority of the human rights violations including deaths that it investigated during the year.

In combating criminal organizations, security forces sometimes resorted to the summary execution of suspects, or "salvaging." Police and military spokesmen explained these killings as the unavoidable result of an exchange of fire with suspects or escapees. The Philippine Alliance of Human Rights Advocates (PAHRA) reported that police used excessive force including summary executions on March 15 while ending a siege at the Metro Manila district jail that began with an escape attempt (see section 1.c.).

Summary killings by vigilante groups in two major cities increased, and local officials seemed to condone and even encourage them. Through December vigilantes killed some 147 persons in Davao City, Mindanao (compared with 104 killings in 2004), and 104 in Cebu City in the central Visayan region. The cities of Toledo and Carcar on Cebu island also saw apparent

extrajudicial killings. Most of the victims were suspected of involvement in criminal activities, and the killings appeared to have popular support. The authorities made no arrests in these cases. A court dismissed two cases filed last year in Davao because the victims' relatives withdrew their complaints. In June the Office of the Ombudsman suspended four police officers in Davao for failing to solve extrajudicial killings in their jurisdiction; however, on July 4, the court of appeals reinstated them.

On March 3 and 13, gunmen killed a leader of the leftist political party Bayan Muna (People First) and a priest of the Aglipayan Church who were involved in supporting a strike by plantation workers in Tarlac Province; officials arrested a suspect in one of these cases. The CHR has not released a final report of its investigation of the November 2004 killing by security forces of seven persons during the strike.

There were no developments in the case of four human rights workers, allegedly killed by the military in February 2004 in Mindoro Oriental and Mindoro Occidental.

There were no developments in the August 2004 killing of human rights activist Jacinto Manahan in Davao. A police investigation did not identify any suspects.

In December 2004 the Department of Justice dismissed the case against members of the Armed Forces of the Philippines (AFP) for the 2003 abduction and killing of two members of a team of human rights advocates in Mindoro Oriental. The CHR also dismissed its inquiry proceedings after the complainants withdrew the case.

In recent years there have been deaths as a result of military hazing. On March 11, a freshman cadet at the Philippine Merchant Marine Academy died after a senior cadet beat him. Police detained two individuals on charges of homicide. There were no developments in the June 2004 case of a PNP cadet who died allegedly from maltreatment during training.

Government forces killed a number of civilians during clashes with antigovernment forces and the ASG and NPA (see section 1.g.).

Killings of community activists, church workers, lawyers, and members of leftist political parties, particularly the left-wing political party Bayan Muna, increased during the year. Through December unidentified assassins, whom Bayan Muna and other

leftist groups alleged to be members of the security forces, killed more than 40 activists, at least 20 of whom were members of Bayan Muna. Bayan Muna officials claimed that more than 73 of its leaders and sympathizers have been killed, and about 10 others were still missing since Bayan Muna's entry to the Congress in party-list elections in 2001.

On March 9, a gunman shot and killed Romeo Sanchez, Bayan Muna coordinator for the Ilocos region and a radio broadcaster in Baguio City. The police created a special task force that investigated the killing and identified the gunman; however, at year's end he remained at large.

On March 14, two unidentified men on a motorcycle shot and killed Felidito Dacut, Bayan Muna coordinator for eastern Visayas and a human rights lawyer in Tacloban City. Dacut's family and colleagues alleged that elements of the Eighth Infantry Division of the AFP were involved in the killing. Other activists in the operating area of the Eighth Division also have been shot or attacked in eastern Samar and Leyte.

On May 12, unidentified assailants killed Reverend Edison Lapuz, a member of Bayan Muna and a minister of the United Church of Christ in the Philippines (UCCP), in Tacloban, Leyte. Police made no arrests in the case. On August 20, Bayan Muna activist and UCCP pastor Raul Domingo was shot by armed men in Puerto Princesa, Palawan; he died on September 4. The UCCP reported at least seven other attacks on its members in several regions during the year.

On September 23, a regional trial court judge was killed in her house in Natividad, Pangasinan. Police identified two suspects, but no warrants were issued for their arrest, and the case remained under preliminary investigation. On December 31, two men riding a motorcycle shot and killed a Pasay City regional trial court judge. Trials in the 2004 killings of two judges were underway, and prosecutors filed charges in the third case. Ten cases of the killing of judges remained pending at year's end.

On October 25, unidentified assailants killed Ricardo Ramos, the local leader of the sugar workers' union at the Hacienda Luisita plantation in Tarlac Province. Police questioned two AFP soldiers about the killing and filed murder charges against the two in mid-November.

Journalists were also targets for murder. During the year 10 journalists were killed, 8 of them in work-related slayings, according to the Criminal Investigation and Detection Group Task Force "Newsmen." On November 29, a court convicted and sentenced to life imprisonment a policeman (who was relieved of duty during the investigation) for the 2002 killing of journalist Edgar Damalerio in Pagadian, the first conviction in the killing of a journalist since 1999 (see section 2.a.). There have been approximately 38 killings of journalists since 1999.

In July 2004 authorities arrested and charged 15 suspected NPA members for the June 2004 killing of the police chief of Angat, Bulacan. There have been no known developments in the case since the arrests.

Unlike the 249 incidents of election-related violence reported by the PNP during the 2004 national elections, no election-related violence occurred during the August 8 elections in the Autonomous Region of Muslim Mindanao (ARMM).

The government continued to hold in jail five Moro Islamic Liberation Front (MILF) members charged with the 2003 Davao airport and seaport bombings. Their trial began in March and was ongoing at year's end.

The terrorist ASG continued to kill civilians in bombings throughout the year (see section 1.g.). The ASG claimed responsibility for one bombing in Manila and two in Mindanao on February 14, which killed 13 civilians. On June 22, a court sentenced seven members of the ASG to death for their role in the 2001 kidnapping and subsequent murder of 12 hostages. Authorities suspected the ASG of bombings in Mindanao during August that injured dozens of civilians.

Communist insurgents, mainly from the NPA, continued to kill political figures, military and police officers, and civilians, including suspected military and police informers. On June 13, NPA rebels killed nine soldiers of the 50th Infantry Battalion and injured three others during an ambush in Ilocos Sur.

#### b. Disappearance

Local human rights NGOs believed government forces were responsible for disappearances. On July 26, a group of suspected military intelligence agents abducted left-wing political activist Armando Barquillo and his associate Lirio de Castro in Tansa, Cavite Province. Their whereabouts remained unknown as of

year's end. At year's end, the domestic NGO Families of Victims of Involuntary Disappearances (FIND) documented seven cases of disappearances involving 21 victims; 6 were found alive, 14 were still missing, and 1 was found dead. The Police Anticrime and Emergency Response Task Force recorded 38 cases of abduction involving 48 victims, of which 28 remained unsolved at year's end. FIND recorded 30 disappearances in 2004; 2 were found dead, 15 later reappeared and said they had been detained in military detention centers, and 13 remained missing. FIND suspected government forces in all 30 cases.

The courts and police failed to address adequately complaints of victims' families concerning past disappearances in which security forces were suspected. The police do not assume that a missing person case involves a crime. Evidence of a kidnapping or killing is required in order for charges to be filed. FIND and Amnesty International's Manila office continued to support the efforts of victims' families to press charges. In most cases, evidence and documentation were unavailable, and convictions were rare. FIND reported that only 15 cases were pending in court at year's end. During the year FIND filed a petition for a writ of habeas corpus against the suspected perpetrators in one case involving four victims, but the court has not yet granted it. Judicial inaction on the vast majority of disappearances contributed to a climate of impunity and undermined public confidence in the justice system.

Efforts to locate three members of Bayan Muna reportedly abducted in Manila in July 2004 by 10 armed men were unsuccessful. FIND claimed the Intelligence Service of the AFP was responsible.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution prohibits torture, and evidence obtained through its use is inadmissible in court; however, members of the security forces and police routinely abused and sometimes tortured suspects and detainees. The CHR provides the police with mandatory human rights training, and senior PNP officials appeared receptive to respecting the human rights of detainees; however, rank-and-file awareness of the rights of detainees remained inadequate.

The TFDP stated that torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation reportedly included striking detainees

and threatening them with guns. The TFDP reported that arresting officers often carried out such beatings in the early stages of detention.

Within the AFP, the CHR continued to observe greater sensitivity to the need to prevent human rights violations. CHR is required to certify that an officer being considered for promotion does not have a history of human rights violations (see section 4); however, a negative CHR finding does not preclude promotion. The CHR also vets PNP officers at the senior superintendent level. Nevertheless, abuses still occurred. Human rights activists complained of abuses by security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, members of the AFP continued to beat ASG suspects.

The TFDP reported 15 cases of torture involving 32 victims during the year.

In April four farmers in Laak, Mindanao, accused the AFP of torturing them as suspected NPA collaborators. The CHR began an investigation of the case but by year's end had not yet released any conclusion.

A man arrested in June by the AFP 65th Infantry Battalion as a suspected NPA leader alleged the use of torture while he was in captivity. A CHR investigation confirmed that the victim had signs of beatings on his back and black marks on his hand from electric shock. The commanding officer of the battalion denied the allegations. No case was filed before the courts.

#### Prison and Detention Center Conditions

Prison conditions were rudimentary and sometimes harsh. Provincial jails and prisons were overcrowded, lacked basic infrastructure, and provided prisoners with an inadequate diet. Jails managed by the Bureau of Jail Management and Penology (BJMP) in metropolitan Manila operated at 390 percent of designed-capacity, compared with 323 percent last year. The BJMP had a budget of \$40.85 million (P2.25 billion), an increase of 16 percent from the 2004 budget. Administrators budgeted a daily subsistence allowance of about \$0.73 (P40) per prisoner, up from 2004. Prison inmates often depended on their families for food because of the insufficient subsistence allowance and the need to bribe guards to receive food rations.

The slow judicial process exacerbated the problem of overcrowding. Some inmates took turns sleeping, and others slept

on their feet. Some prison wardens reportedly allowed wives or children to move in with inmates or stay in the prison compound because they could help feed the prisoners. Lack of potable water and poor ventilation continued to cause health problems in jails.

The number of inmates in overcrowded detention centers increased, in part because of the intensified campaign against illegal drugs. As of October there were 62,462 inmates in centers managed by the BJMP nationwide, and 29 thousand inmates in prisons managed by the Bureau of Corrections, compared with 59,225 and 28,530 in 2004.

There were reports of widespread corruption among guards. Guards demanded that prisoners pay to receive food, to use sanitary facilities, and to avoid beatings by other prisoners. Jail administrators reportedly delegated to senior inmates authority to maintain order. The CHR and TFDP reported that beatings by prison guards and other inmates were common but that prisoners, fearing retaliation, refused to lodge complaints. Corruption appeared to be a problem at higher levels of authority within the prison system as well. Favored inmates reportedly enjoyed access to prostitutes and drugs.

There were reports that guards abused prisoners. Women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Victims often were afraid to report incidents (see section 5). Some detainees at Bureau of Immigration detention centers reportedly gained release by making cash payments to guards.

As of October the BJMP recorded 27 successful prison escapes involving 65 inmates; 34 were recaptured and 31 remained at large. Police blamed the escapes on lenient security and the poor quality of detention facilities. On March 15, inmates at Metro Manila District Jail killed three guards and broke into the prison armory during an escape attempt. After 24 hours, police recaptured the facility, killing 26 inmates (see section 1.a.).

According to regulation, male and female inmates are to be held in separate facilities and, in national prisons, overseen by guards of the same sex; however, there were anecdotal reports that these regulations were not uniformly enforced. In provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children in some



instances, they were held in facilities not fully segregated from adult male inmates (see section 5). Only 232 out of 1,132 jails managed by the BJMP and PNP had separate cells for minors, while 435 jails had separate cells for females. In Bureau of Immigration detention facilities, male and female inmates were segregated by sex, but male guards oversaw both sexes.

International monitoring groups, including the International Committee of the Red Cross, were allowed free access to jails and prisons.

#### d. Arbitrary Arrest or Detention

The law requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, in a number of cases, police arrested and detained citizens arbitrarily. At year's end the TFDP documented 37 cases of illegal arrest and detention involving 88 victims, a considerable decline from the 128 cases CHR recorded in 2004.

#### Role of the Police and Security Apparatus

The Department of National Defense directs the AFP, which has primary responsibility for counterterrorism and counterinsurgency operations. The Department of Interior and Local Government controls the PNP, which is responsible for enforcement of law and order; however, governors, mayors, and other local officials have considerable influence. The 115 thousand-member PNP has deep-rooted institutional deficiencies dating back to the 1990-91 reorganization that changed it from a constabulary force within the AFP to a national police force. The PNP suffered from a widely-held and accurate public perception that it was corrupt, and the PNP's Internal Affairs Service remained largely ineffective. Members of the PNP were regularly accused of torture, of soliciting bribes, and of other illegal acts committed with impunity. However, efforts were underway to reform the institution. From January to December, the PNP Directorate for Investigation and Detective Management dismissed 197 policemen. Of the 4,670 administrative cases filed against PNP officers and personnel, 2,344 were resolved, 1,288 remained under preliminary investigation, and 1,038 underwent summary hearings.

#### Arrest and Detention

Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence or death (when evidence is strong), the right to bail; however, only 6.5 percent of detainees were able to post bail. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, with the time given to file charges increasing with the seriousness of the crime. Lengthy pretrial detention remained a problem (see section 1.e.), but during the 26 months from June 2003 to August 31, the courts released 2,087 detainees who had been in jail longer than the maximum prison term they would have served if convicted.

Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners; estimates usually ranged from a few to over 250. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons on these lists had not been convicted (see section 1.e.).

The NPA, as well as some Islamic separatist groups, were responsible for a number of arbitrary detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and other persons for "crimes against the people" (see section 1.e.).

#### Amnesty

There were no amnesties during the year. After the National Democratic Front (NDF), the political arm of the Communist Party, announced in July that it would withdraw from peace talks, the government suspended--but later reinstated--security and immunity from arrest guarantees for 97 NDF members who had been involved in negotiations. The government suspended these guarantees again on October 5, citing aggressive NPA activities and a lack of progress in the peace talks.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties and sometimes venality resulted in impunity for some wealthy and influential offenders and widespread skepticism that the judicial process could ensure due process and equal justice. The Supreme Court continued efforts to ensure speedier trials and to sanction judicial malfeasance, and is in the midst of a five-year program to increase judicial branch efficiency and raise public confidence in the judiciary.

During the year, two judges were killed, but the motives for the killings were unclear (see section 1.a.).

The national court system consists of four levels: local and regional trial courts; a national court of appeals divided into seventeen divisions; a 15-member supreme court; and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The *Sandiganbayan*, the government's anticorruption court, hears criminal cases brought against senior officials. A Shari'a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces.

#### Trial Procedures

The law provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial before a judge. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, but poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the Public Attorney's Office (PAO), but their workload was large and resources were scarce. The PAO provides legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

According to the law, cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for the Court of Appeals; and 3 months for lower courts. However, these time limits are not mandatory, and, in effect, there are no time limits for trials.

Lengthy pretrial detention remained a problem. In May the UN Development Program (UNDP) and the Supreme Court released a study that found that the average trial takes over three years. Trials take place in short sessions over time and as witnesses become available, these non-continuous sessions created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high; of the total 2,153 trial court judgeships (including Shari'a courts), 684 or 31 percent were vacant, a small decline from 2004. Courts in Mindanao and other poorer provinces had

higher vacancy rates than the national average. Shari'a court positions were particularly difficult to fill because of the requirement that applicants be members of both the Shari'a Bar and the Integrated Bar. All 5 Shari'a district court judgeships, and 41 percent of circuit court judgeships, remained vacant. Shari'a courts do not have criminal jurisdiction.

The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people." The NPA executed some of these "defendants." The MILF also maintained similar "people's courts."

On January 12, NPA gunmen shot and killed a retired police colonel in Lucena City, Quezon Province. The NPA said its "people's court" meted out the death penalty to the retired officer for grave crimes and human rights violations committed during the 1970s and 1980s.

International and domestic NGOs criticized many court proceedings that resulted in death sentences, stating that the judicial system did not ensure due process and legal representation. At times defendants in death penalty cases lacked adequate legal representation at the time of arrest, indictment, or trial. By law the Supreme Court reviews all death sentences. No executions have been carried out since the president lifted a three-year moratorium on the application of the death sentence in 2003. On February 21, the President granted a 90-day reprieve to 14 death row convicts and then again on April 21 to an additional 21 death row convicts. At the expiration of the 90-day reprieves, although no further announcements were made, the prisoners were not executed.

#### Political Prisoners

Various human rights NGOs maintained lists of incarcerated persons they alleged to be political prisoners. In November the TFDP said that there were 252 political prisoners. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons listed have not been convicted. Some NGOs asserted that it was frequent practice to make politically motivated arrests of persons for common crimes and to continue to detain them after their sentences expired. The government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it did not consider the persons listed to be political detainees or prisoners.

Unlike in 2004, the government did not release any persons whom NGOs claimed were political prisoners.

The government permitted access to alleged political prisoners by international humanitarian organizations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law provides that a judge may issue search warrants on a finding of probable cause; however, while the government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges declared evidence obtained illegally to be inadmissible.

The government generally respected the privacy of its citizens; however, leaders of communist organizations complained of what they described as a pattern of surveillance of their activities.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year. The TFDP documented one case of alleged illegal demolition of squatters' homes in Metro Manila, affecting more than 20 thousand persons. The law provides certain protections for squatters; eviction was often difficult, especially because politicians recognized squatters' voting power. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters targeted by displacement was limited.

Unlike in past years, there were no reports that paramilitary units linked to the AFP used forced conscription of indigenous peoples.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

Some citizen groups complained that the AFP, in confronting the terrorist ASG and NPA, illegally detained citizens, torched houses, displaced residents, and shelled villages. The AFP defended its actions (see sections 1.a., 1.d., and 2.d.). In February a Moro rights advocate, his wife, and son were killed in Sulu, allegedly by members of the AFP conducting counterinsurgency operations. In retaliation for this and other alleged military abuses, a Moro National Liberation Front (MNLF) splinter group and ASG elements attacked government forces in

Sulu, setting off several weeks of intense fighting in the region that displaced at least 26 thousand civilians (see section 2.d.).

NGOs also accused the police of wrongful detention, excessive force, and extrajudicial killings (see section 1.c.). In January members of a Muslim police unit raided the Islamic Information Center in Manila and detained 17 suspected Islamic militants, including 3 women. Police asserted the group was planning to bomb the Catholic celebration of the feast of the Black Nazarene. However, police released 15 of the suspects shortly after their arrest, due to lack of evidence.

During an attempted jailbreak at the Metro Manila District Jail on March 15, 26 prisoners, most alleged to be ASG members, 3 jail guards, and 1 police officer died. PAHRA claimed that police used excessive force including summary executions in ending the siege.

There were no reported developments with regard to the February 2004 extrajudicial killings in the Western Police District of Metro Manila, the March 2004 killing of three civilians caught in a crossfire between PNP and NPA elements, the 2004 killing of two teenage boys in Catarman, Northern Samar, and the April 2004 wounding of two minors by National Antikidnapping Task Force personnel.

On January 3, the three-year-old daughter of a government militiaman was killed when the NPA attacked a military camp in Rizal Province.

The ASG bombed multiple targets, killing and wounding civilians. Throughout the year, clashes between the AFP and ASG, mostly in the Zamboanga peninsula and Sulu archipelago, contributed to the displacement of civilians.

During the year the NPA killed political activists, mayors, other civilians, and military and police personnel. The NPA also harassed businesses and burned buses to enforce the collection of "revolutionary taxes." The AFP reported that the NPA killed 40 civilians and 80 AFP and PNP personnel from January through August. The NPA continued actively to recruit minors both as combatants and noncombatants (see section 5).

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The government owned several television and radio stations; however, most print and electronic media were privately owned. The media were active and expressed a wide variety of views without restriction. Broadcast and print media were freewheeling and often criticized for lacking rigorous journalistic ethics. They tended to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom were close associates of present or past high-level officials. Special interests often used bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions.

Journalists continued to be targets for murder. By year's end 10 journalists were killed, according to the National Union of Journalists of the Philippines. The Criminal Investigation and Detection Group Task Force "Newsmen" classified eight of these cases as work-related slayings. According to the task force, 7 of more than 60 cases of journalist killings since 1986 resulted in convictions. In 2004 the International Federation of Journalists recorded 13 killings of journalists.

Human rights NGOs frequently criticized the government for failing to protect journalists. The National Union of Journalists accused the police and the government of failing adequately to investigate these killings and of subjecting journalists to harassment and surveillance. In some situations, it was difficult to discern if violence against journalists was carried out in retribution for their profession or if these journalists were the victims of random crime. According to a study released by the Center for Media Freedom and Responsibility (CMFR) on September 6, most of the slain journalists were not professionally trained as journalists or formally accredited to any national media organization. CMFR listed 54 journalists killed since democracy was restored in 1986.

On March 24, a gunman accompanied by three accomplices shot Marlene Esperat, a columnist for a newspaper in Tacurong City, Mindanao. Esperat was an antigraft crusader and had filed a number of cases against local and national government officials before the national Ombudsman. The police arrested and filed charges against four suspects, including a military intelligence agent. The police also filed charges against two officials of

the Department of Agriculture regional office in Mindanao, but the Department of Justice recalled the arrest warrants issued by the trial court while charges were being reviewed.

On May 10, three gunmen killed Philip Agustin, editor of a local newspaper in Dingalan, Aurora Province. Agustin's family accused the Dingalan mayor of being behind the killing. Agustin had criticized the mayor's use of municipal funds. On May 14, National Bureau of Intelligence agents arrested a suspect and filed murder charges against him; his trial was on-going at year's end. Two other suspects remained at large.

In August a wreath meant for the dead was sent anonymously to a news magazine editor, who had been writing about alleged military participation in election fraud.

In November 2004 a case was filed against four suspects, including a police officer, for the July 2004 murder of Ilocos Norte radio commentator Roger Mariano. At year's end the suspects had not yet been arraigned.

In January the national Ombudsman dismissed the charges against the *barangay* (neighborhood) chairman suspected of involvement in the August 2004 murder of a newspaper writer in Batangas for lack of evidence. Charges remained in effect against the chairman's nephew and another suspect, both of whom remained at large.

There were no developments in the August 2004 attempted murder of Mindanao-based radio commentator Edward Balida.

The former policeman accused of killing journalist Edgar Demalerio in Western Mindanao in 2002 was convicted of murder and sentenced to life imprisonment on November 29. By year's end this was the only conviction in any of the cases of journalists killed since 1999.

The government did not restrict Internet use.

In June the intelligence service of the AFP released a presentation, "Know Your Enemy," listing some press unions and student organizations as "enemies of the state" or communist fronts. The government did not otherwise interfere with academic freedom.

b. Freedom of Peaceful Assembly and Association



The law provides for freedom of assembly, and the government generally respected this right in practice. Although the law requires that groups request a permit to hold a rally, the government at times followed an unwritten policy of allowing rallies to occur without requiring the filing of a request.

On June 24, police stopped about eight thousand protesters demanding the resignation of President Arroyo from proceeding toward a landmark in Manila because they did not have a permit to demonstrate. The mayor of Manila did not issue a permit to the opposition group, forcing them to assemble at the boundary of Manila and Quezon City.

On September 21, President Arroyo declared that the police and armed forces would no longer exercise "maximum tolerance" in dealing with protestors. The presidential palace subsequently explained that it was urging municipalities to enforce strictly the requirements that protests be staged in designated areas and only with government permits. In practice there did not appear to be any notable change in the way the authorities dealt with demonstrators.

In November 2004 police fired into a crowd of striking sugar plantation workers, killing an estimated 12 and wounding more than 100 (see section 1.a.).

#### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice. Although Christianity, particularly Roman Catholicism, was the predominant religion, there is no state religion, and church and state are legally separate.

The government's campaign against the terrorist ASG has led some human rights NGOs to accuse the police and military of unfairly targeting Muslims for arrest and detention. However, most observers believed that discrimination against Muslims was grounded in cultural differences, not religious beliefs or practices. There also were reports of Muslim discrimination against Christians in areas where Muslims were the majority.

Intermittent government efforts to integrate Muslims into political and economic society have achieved only limited success. Many Muslims claimed that they continued to be underrepresented in senior civilian and military positions and cited the lack of proportional Muslim representation in national

government institutions (see section 3). Predominantly Muslim provinces in Mindanao lagged far behind the rest of the country in most aspects of socioeconomic development. Poverty levels in the ARMM were almost twice as high as the national average, with per capita income of \$285 (P15,760) per year.

The teaching of religious classes in public schools was permitted with the written consent of parents, provided that there was no cost to the government. The Department of Education required schools to ensure the protection of the religious rights of students. These measures included allowing Muslim girls to wear their head coverings (*hijab*) and not requiring them to wear shorts during physical education classes.

The Commission on Higher Education, which oversees higher education, offered study grants for some former Muslim separatists who could not afford college. The program aimed to contribute to peace and order by upgrading the education of these individuals.

In August the government began implementation of a curriculum designed to integrate madrassas into the national education system. Several private madrassas began training educators to teach math, science, English, and Filipino, in addition to religious subjects. In addition, public elementary schools that have at least 25 Muslim students will be required to begin offering Arabic language and Islamic values classes. The Department of Education estimated that approximately 100 thousand students attended more than 2 thousand madrassas nationwide. To date, 1,140 madrassas seeking financial assistance from local and foreign donors were registered with the Office on Muslim Affairs, while only 40 were registered with the Department of Education.

#### Societal Abuses and Discrimination

Muslims were the largest minority religious group. Estimates of the size of the Muslim population ranged from 3.9 million to 7 million, or 5 to 9 percent of the population. Muslims resided principally in Mindanao and nearby islands, but there were Muslim communities throughout the country.

Historically, the Christian majority marginalized Muslims. The national culture, with its emphasis on familial, tribal, and regional loyalties, creates informal barriers whereby access to jobs or resources is provided first to those of one's own family or group network. Muslims reported difficulty renting rooms or

being hired for retail work if they used their real names or wore distinctive Muslim dress. As a result, some Muslims used Christian pseudonyms and did not wear distinctive dress when applying for housing or jobs.

An estimated four hundred to one thousand Jews lived in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2005 International Religious Freedom Report*.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice. Travel abroad was limited only in rare circumstances, such as when a citizen has a pending court case. Government authorities discouraged travel by vulnerable workers to areas in which they face personal risk (see section 5).

The government retained its ban on travel to Iraq to work. The Philippine Overseas Employment Administration (POEA) sought to limit departures for work abroad to persons the POEA certified as qualified for the jobs. More than 8.02 million citizens worked overseas and remitted money home. Such remittances accounted for approximately 11 percent of the gross national product.

Forced exile is illegal, and the government did not use it.

Internally Displaced Persons (IDPs)

Continuing clashes between the AFP and the NPA, ASG, and a breakaway group of the MNLF displaced thousands of persons. According to the Department of Social Welfare and Development (DSWD), 143,487 persons were displaced in central Mindanao and the ARMM at year's end, mostly due to armed conflict. Since 2004 DSWD has established 707 shelter units to resettle IDPs in the area. Other agencies, including UNDP, the Mindanao Emergency Relief Network, and the Red Cross provided food and essential items such as medicine, blankets, mosquito nets, and soap to IDPs.

Protection of Refugees

The country is a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol; however, there is no comprehensive legislation that provides for granting refugee status or asylum. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution, and granted refugee status or asylum. The refugee unit in the Department of Justice determined which asylum seekers qualify as refugees; such determinations in practice implemented many of the basic provisions of the 1951 convention. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention or its 1967 protocol and provided it to approximately two thousand persons during the year.

The government allowed approximately two thousand asylum seekers from Vietnam to remain in the country although none had been found to be refugees under the UNHCR-administered Comprehensive Plan of Action in the 1990s. The majority of this group was being processed for resettlement in the United States. An estimated 400 persons who married Philippine citizens remained in legal limbo: ineligible for resettlement in other countries and not granted permanent asylum.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections that largely were free and fair and held on the basis of universal suffrage.

#### Elections and Political Participation

There were no reported incidents of election-related violence during August 8 elections in the ARMM. Election-related violence during the 2004 national election was a serious problem (see section 1.a.).

In May 2004 national elections were held for president, senators, representatives, provincial governors, and local government officials. Voter turnout was high, with approximately 74 percent of eligible voters participating; however, voting was marred by numerous irregularities. From April to July 2004, an election monitoring survey conducted by a consortium of three

international NGOs concluded that an antiquated voting system, system error, and improper management of registration databases disenfranchised thousands of voters. Widespread reports indicated that local politicians and their supporters engaged in vote buying and that conditions did not ensure that balloting was secret. Observers also received reports of NPA activists imposing "permission to campaign" fees on local candidates.

During the year allegations intensified that President Arroyo, with the assistance of Commission on Elections officials, had manipulated the vote.

Multiple political parties were able to present candidates for office, raise funds, and mobilize voters. However, parties tended to be personality driven; dynastic and family influences were strong, and issues generally were less important. Campaign financing, antidynasty, and other political party laws and provisions often were not observed.

The 2004 election marked the first time that overseas Filipinos were able to vote. Only 230 thousand of 354 thousand registered overseas voters, or 65 percent, actually voted, a small portion of the estimated 8.67 million Filipinos working overseas. The low rate of registration was attributed to lack of information about the procedures, inaccessible registration centers, strict employers who did not allow overseas workers to take a day off, and the requirement that voters execute an affidavit to return to the country to reside within three years.

The Commission on Elections did not allow first-time voters among squatters in communities of the urban poor to register for the elections unless they could prove that they were bona fide residents of their locale. NGOs estimated that this registration residence requirement deprived one million squatters of the right to vote. Among those who did register, vote buying was common and many residents accepted bribes to vote in a certain way or to act as "flying voters," voting in several precincts.

There were no restrictions in law or practice on participation by women and members of minorities in politics. Many women, including the president, held positions of leadership and authority. There were 4 women in the 24-seat Senate and 37 women in the 236-seat House of Representatives. There were 3 women in the 23-member Cabinet, 5 female associate justices on the 15-member Supreme Court, and 14 female governors.

Along with many other citizens, Muslims argued that electing senators from a nationwide list favored established political figures from the Manila area, to the disadvantage of Muslims. Election of senators by region would require a constitutional amendment, and many Muslims and members of other groups underrepresented in the national legislature favored such an amendment. There were no Muslim cabinet members and no Muslim senators. There were 12 Muslim members in the 236-seat House of Representatives, including some elected from Christian majority districts.

#### Government Corruption and Transparency

A justifiable public perception of corruption in the judicial, executive, and legislative branches remained high. Both the government and the private sector have established a number of anticorruption bodies including an Ombudsman's Office and an anticorruption court. Cases were opened against high-ranking military officers and against officials in the Department of Public Works and Highways, the Bureau of Customs, and the Department of Transportation and Communication. Nonetheless, the perception remains of a "very high" and "steady" level of corruption in public agencies.

The law provides for a right to information on matters of public concern, and the Supreme Court has affirmed this provision. However, denial of such information often occurred when the information related to an anomaly or irregularity in government transactions. Much government information was not available electronically and was difficult to retrieve.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A large and active group of human rights NGOs generally operated without government interference, investigating and publishing their findings on human rights cases. Most government officials were responsive to NGO views. Many domestic NGOs were critical of the government's human rights record. While acknowledging that respect for human rights has improved under President Arroyo, many NGOs criticized the government for being overzealous in its efforts to defeat the various insurgencies in the country. These groups cited indiscriminate arrests, torture of suspects, and the shelling of civilian areas the AFP suspected of harboring insurgents.

Some NGOs expressed concern over what they perceived as hostile government rhetoric toward human rights activists. NGOs also expressed concerns over statements by local government officials that condoned extrajudicial killings as an acceptable means to fight crime. Human rights activists were the victims of apparent extrajudicial killings (see section 1.a.).

On June 16, two unidentified assailants shot and wounded a board member of the TFDP in Tacloban City, Leyte. Officials of the TFDP accused members of the Eighth Infantry Division in eastern Visayas of the attack.

Member organizations of the Philippine Alliance of Human Rights Advocates, a leading NGO network, monitored human rights problems and sought redress through their contacts with government agencies, the Congress, and the CHR. Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from the area in which incidents under investigation took place.

The CHR is an independent agency mandated to protect and promote human rights. It is empowered to investigate all human rights violations and to monitor the government's compliance with international human rights treaty obligations. The CHR has nonbinding authority to clear on military promotions. The commission has a chairperson and four members. CHR monitoring and investigating continued to be hamstrung by insufficient resources. Approximately one-third of the country's 42 thousand barangays had Human Rights Action Centers, which coordinated with CHR regional offices; however, the CHR's regional and subregional offices remained understaffed and underfunded. The CHR budget for the year was \$3.59 million (P197.38 million), down 6 percent in peso value from 2004.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

##### Women

Violence against women, both in and out of the home, remained a serious problem. The 2004 Anti-Violence Against Women and their Children Act criminalized physical, sexual, and psychological harm or abuse to women and their children committed by their

spouses or partners. During the year the PNP reported 818 cases under the new law and 2,015 other cases of wife battering and physical injuries under older laws. This number likely underreported significantly the level of violence against women in the country. A 2003 survey by the NGO Social Weather Station found that 12 percent of men admitted having physically harmed women (39 percent of these respondents indicated violence against their wife, 15 percent against their girlfriend, and 4 percent against their partner). Women in the same survey cited the following reasons for not reporting violence: embarrassment; not knowing how or to whom to report; belief that nothing would be done; and believing it was too small of a thing.

The PNP and DSWD both maintained women's help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Approximately 7 to 8 percent of PNP officers were women.

Rape continued to be a serious problem. During the year the PNP reported 784 rape cases. There were reports of rape and sexual abuse of women in police or protective custody--often women from marginalized groups, such as suspected prostitutes, drug users, and lower income individuals arrested for minor crimes.

The law provides for the death penalty in cases of rape, and as of year's end there were a total of 968 prison inmates who had been sentenced to death for this crime. Spousal rape and abuse are also illegal, but enforcement was ineffective. Some NGOs argued that courts' imposition of death sentences for rape convictions inhibited some victims, particularly relatives of the accused, from pressing charges.

Prostitution is illegal but was a widespread problem. Many women suffered exposure to violence through their recruitment, often through deception, into prostitution (see section 5, Trafficking). Penalties for prostitution are light, but detained prostitutes were subjected to administrative indignities and extortion. The DSWD continued to provide temporary shelter and counseling to women engaged in prostitution. This helped only a small percentage of victims. From January to September, DSWD provided temporary shelter and counseling to 108 women who were victims of involuntary prostitution. Some local officials condoned a climate of impunity for those who exploited prostitutes. There were no convictions under the provision of



the law criminalizing the act of engaging the services of a prostitute.

Sex tourism and trafficking in persons for sexual exploitation and forced labor were serious problems. A 2003 antitrafficking law outlawed a number of activities specifically related to trafficking and provided stiff penalties for convicted offenders (see section 5, Trafficking).

The law prohibits sexual harassment. However, sexual harassment in the workplace was thought to be widespread and underreported due to victims' fear of losing their jobs. Female employees in special economic zones (SEZs) were particularly at risk; most were economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry worked on three- to five-month contracts and were reluctant to report sexual harassment for fear their contracts would not be renewed.

The law does not provide for divorce, although the courts generally recognize the legality of divorces obtained in other countries if one of the parties is a foreign national. The government recognizes religious annulment, but the process can be costly, which precludes annulment as an option for many women. Many lower-income couples simply separated informally without severing their marital ties. The family code provides that in child custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of seven are placed in the care of the mother unless there is a court order to the contrary. Children over the age of seven normally also remained with the mother, although the father could dispute custody through the courts.

In law, but not always in practice, women have most of the rights and protections accorded to men. Women continued to face some discrimination in employment, despite the fact that more women than men entered secondary and higher education. Unemployment rates for women remained higher than for men.

The National Commission on the Role of Filipino Women, composed of 10 government officials and 13 NGO leaders appointed by the president, acted as an oversight body whose goal is to press for effective implementation of programs benefiting women.

Children

The government devoted considerable resources to the education, welfare, and development of children. The Department of Education (DOE) had the largest budget of any cabinet department: 12.3 percent of the national budget. Nevertheless, children faced serious problems.

Elementary and secondary education is free and is compulsory through age 11, but the quality of education remained poor due in part to inadequate resources. During the year, according to DOE figures, the estimated annual per pupil expenditure for basic education was \$106 (P5,729). The DOE received a budget of \$2.04 billion (P112.04 billion) for the year. The public school enrollment rate for 2004-05 was 76 percent, down from 94 percent for the 2002-03 school year. According to UN Children's Fund (UNICEF) statistics, girls and boys attend school in approximately equal numbers.

According to government reports, 68.3 percent of children were well nourished, and 64 percent were fully immunized. The child mortality rate was 36 out of 1,000 children under age five. Most of the malnourished children were in villages in Maguindanao, Lanao del Sur, and Tawi-Tawi provinces. According to UNICEF data from 1995 to 2003, 31 percent of children under age five were moderately or severely underweight.

Child abuse remained a problem. DSWD offices served 6,904 victims of child abuse from January to September, of whom 69 percent were girls. Approximately 50 percent of the girls were victims of sexual abuse, while 4 percent (199 girls) were victims of sexual exploitation. The majority of the boys had been abandoned or neglected. Several cities ran crisis centers for abused women and children. The problem of foreign pedophiles continued, and the government continued to prosecute accused pedophiles. Children also were victims of police abuse while in detention for committing minor crimes. In March the University of the Philippines Center for Integrative and Development Studies released a report highlighting child pornography as a significant problem in the country.

Child prostitution continued to be a serious problem (see section 5, Trafficking). During the year the Department of Labor and Employment (DOLE) ordered the closure of at least one establishment for allegedly prostituting minors. The trial was on-going at year's end.

Children were targeted for recruitment as combatants and noncombatants by the NPA and ASG. There were an estimated two

thousand child soldiers in the country. By mid-year an International Labor Organization (ILO)-led program demobilized and reintegrated into society three hundred children. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombatant duties; however, there were reports that the NPA continued to use minors in combat. In a July 2004 report the Council for Welfare of Children estimated that children constituted between 13 to 18 percent of armed rebel combatants. In the last several years, the AFP on numerous occasions captured or killed NPA fighters who turned out to be minors.

The ASG also recruited teenagers to fight and participate in its activities. There were reports that a significant number of ASG members staffing the groups' camps were teenagers. The AFP stated that some Islamic schools in Mindanao served as fronts to indoctrinate children and that the ASG used children as couriers and spies.

According to UNICEF and ILO studies, approximately 2.4 million children were exposed to hazardous working environments, such as in quarries, mines, and at docksides (see section 6.d.). Since 1995, only four persons have been convicted of violating the child labor law.

The government estimated that there were at least 22 thousand street children nationwide. UNICEF estimated that there were approximately 250 thousand street children. Welfare officials believed that the number increased as a result of widespread unemployment in rural areas. Many street children appeared to be abandoned and engaged in scavenging or begging.

A variety of national executive orders and laws provide for the welfare and protection of children. Police stations have child and youth relations officers to ensure that child suspects are treated appropriately. However, the procedural safeguards were often ignored in practice. According to UNICEF, approximately 28 children were arrested every day. The BJMP stated that approximately 1,700 minors were in jail; at least 7 had been sentenced to death, while 21 were serving life sentences. Many child suspects were detained for extended periods without access to social workers and lawyers, and were not segregated from adult criminals. NGOs said that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other ill treatment. There were also reports that many children detained in jails appeared to have been arrested without warrants.

In April Justice Secretary Raul Gonzalez ordered a nationwide review of cases of juvenile offenders. During the year government agencies and NGOs worked to segregate juvenile offenders, secure the release of minors wrongfully imprisoned, and transfer others to rehabilitation centers. DSWD ran 11 regional youth rehabilitation centers for children in conflict with the law. There were three detention centers for children in Manila.

A number of NGOs actively promoted children's rights.

#### Trafficking in Persons

Trafficking in persons is prohibited under a comprehensive 2003 antitrafficking law, which defines several activities related to trafficking as illegal and imposes stiff penalties--up to life imprisonment--for convicted offenders. Nonetheless, trafficking remained a problem in the country. During the year, five persons were convicted and sentenced to life imprisonment under the antitrafficking law; three other convicted persons received light sentences as a result of plea bargains.

Although the government investigated trafficking-related cases under the new law as well as old laws, its efforts were hampered by resource constraints. In January the Department of Justice assigned an additional 10 prosecutors to handle the preliminary investigation and prosecution of trafficking cases at the national level, bringing the total to 14, in addition to other prosecutors in the regional trial courts. The principal investigative agencies were the National Bureau of Intelligence, the Bureau of Immigration, and the PNP's Criminal Investigation and Detection Group. The government cooperated with international investigations of trafficking.

The country was a source, transit, and destination country for internationally trafficked persons. Internal trafficking was also a problem. NGOs and government agencies estimated that from 300 to 400 thousand women and from 60 to 100 thousand children were trafficked annually. The most serious problem appeared to be the trafficking of women across international borders for purposes of sexual exploitation. Organized criminal gangs typically trafficked persons from China through the country to other destinations, although occasionally the country was the final destination.

On June 2, the NGO International Justice Mission filed trafficking charges against a police officer, the first public official to be charged under the antitrafficking law. In July DOLE ordered the permanent closure of a bar owned by the police officer.

In August Malaysian authorities rescued and expatriated four Filipino women who were allegedly victims of trafficking. The four were recruited in Davao del Norte Province to work as entertainers in Brunei but were taken instead to Malaysia. A case was filed under the antitrafficking law against the suspected traffickers at the municipal court in Carmen, Davao Del Norte. An arrest warrant was issued but the accused managed to elude arrest.

Both adults and children were trafficked domestically from poor, rural areas in the southern and central parts of the country to major urban centers, especially Metro Manila and Cebu, but also increasingly to cities in Mindanao. A significant percentage of the victims of internal trafficking were from Mindanao and were fleeing the poverty and violence in their home areas. Approximately 75 percent of the trafficking victims provided with temporary shelter and counseling by the NGO Visayan Forum Foundation were from Mindanao. The Visayan islands were also a source of trafficking victims. Women and girls were far more at risk of becoming victims of trafficking than men and boys.

The Viralanie Foundation, a local child protection NGO, estimated that there were at least 20 thousand child prostitutes in the country, most in the Metro Manila area. Other NGOs estimated that as many as 100 thousand children were involved in the commercial sex industry. Most of these children were girls, and nearly all had dropped out of school. These children come from very poor families with unemployed or irregularly employed parents.

The Viralanie Foundation offered housing, training, and counseling services to child prostitutes. An ILO program resulted in more than six thousand children being removed or prevented from engaging in the worst forms of child labor, including the commercial sex industry.

Traffickers targeted persons seeking overseas employment. Most recruits were females ages 13 to 30 from poor farming families. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted

persons from their own hometowns, promising a respectable and lucrative job.

There was anecdotal evidence that some lower-level officials (such as customs officers, border guards, immigration officials, local police, or others) received bribes from traffickers or otherwise facilitated trafficking.

Victims faced exposure to sexually transmitted or other infectious diseases, and were vulnerable to beatings, sexual abuse, and humiliation.

The government devoted significant resources to assist and protect victims. The concept of a trafficked person as a victim rather than a perpetrator was strong. The government, in conjunction with NGO partners, assisted victims by providing temporary residency status and relief from deportation; shelter; and access to legal, medical, and psychological services. As of September, DSWD had provided temporary shelter and social services to 67 female and 88 juvenile victims of trafficking. In 2004 DSWD provided services to 162 women victims of illegal recruitment, 85 victims of involuntary prostitution, and 85 victims of trafficking.

DSWD and many private groups have established shelters and rehabilitation centers. DSWD provided economic aid to victims, including residential care. Additional protective services included hot lines for reporting cases and the operation of 24-hour halfway houses in 13 regions of the country to respond to victims. Although the government provided some funding to domestic and foreign NGOs for services to victims, religious groups, multinational donor agencies, and private foundations typically funded most of the budgets for these NGOs.

The government rarely deported or charged victims of trafficking with crimes; however, police sometimes charged alleged prostitutes with vagrancy. No reliable statistics indicating whether these individuals were victims of trafficking were available.

Victims may file civil suits or seek legal action against traffickers. Most victims who chose to do so filed charges of illegal recruitment. However, the government lacked the resources to pursue these cases effectively.

Numerous government agencies and officials, as well as NGOs and international organizations, continued to support public

information campaigns against trafficking. The government supported programs to prevent trafficking, such as the promotion of women's participation in economic decision making and efforts to keep children in school. The government provided skills training to women, lessening the need for them to go to urban centers or overseas for employment. However, funding remained limited.

#### Persons with Disabilities

The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments and for "the rehabilitation, self-development, and self-reliance of disabled persons and their integration into the mainstream of society." The DOLE's Bureau of Local Employment (BLE) maintained registers of persons with disabilities indicating their skills and abilities. BLE monitored private and public places of employment for violations of labor standards regarding persons with disabilities and also promoted the establishment of cooperatives and self-employment projects for persons with disabilities.

Estimates of the number of persons with disabilities in the country varied significantly. The National Council for the Welfare of Disabled Persons estimated that persons with disabilities make up 10 percent of the population. The 2000 census registered 992 thousand persons with disabilities; however, only 580 thousand were registered with the Department of Health as of July. Advocates suspected the data were incomplete due to the social stigma attached to persons with disabilities. It was estimated that most persons with disabilities were less than 65 years of age and lived at home with their families. Assisted living centers were understaffed and underfunded. DSWD operated two assisted living centers in Metro Manila, and five community-based vocational centers for persons with disabilities nationwide.

Advocates for persons with disabilities contended that equal-access laws were ineffective because implementing regulations were weak, funding was inadequate, and government programs were inadequately focused on integration. Many public buildings, particularly older ones, lacked functioning elevators. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Government efforts to improve access to transportation for persons with disabilities have been halting. Only one of

Manila's light rail lines was wheelchair-accessible, and many stops had out-of-service elevators. Buses lacked wheelchair lifts, and there were reports of drivers who failed to stop for passengers in wheelchairs. A small number of sidewalks had wheelchair ramps, but garbage cans and street vendors often blocked access. Many of the sidewalk wheelchair ramps were crumbling or too steep. The situation was worse in many smaller cities and towns.

### Indigenous People

Indigenous people lived throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They accounted for approximately 14 percent of the national population, with over 60 percent of the total in Mindanao. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children suffered from lack of health, education, and other basic services. NGOs estimated that up to 70 percent of indigenous youth leave or never attend school because of the discrimination they experienced.

Indigenous people suffered disproportionately from armed conflict, including displacement from their homes, because they often inhabit mountainous areas also favored by guerrillas. Their lands were often the sites of armed encounters, and various parties to the fighting have recruited many indigenous people.

The 1997 Indigenous Peoples' Rights Act established a National Commission on Indigenous People (NCIP), staffed by tribal members, to implement constitutional provisions to protect indigenous people. During the year, NCIP had a budget of \$7.37 million (P405 million), a decrease from \$9.56 million (P536 million) in 2004. By the end of 2004, the NPIC had awarded Certificates of Ancestral Land Title covering over 1.49 million acres of land claimed by indigenous persons in the country. It awarded such "ancestral domain lands" on the basis of communal ownership, impeding sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands, and assigns indigenous groups the responsibility to preserve their domains from environmentally inappropriate development. The government was slow to implement the legislation, primarily because of opposition from mining and agribusiness interests, but some limited progress was made.



## Section 6 Worker Rights

### a. The Right of Association

The law provides for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the government. Unions have the right to form or join federations or other labor groups.

The Bureau of Labor Relations reported 139 registered labor federations and more than 24 thousand private sector unions. The 1.6 million union members represented 4.6 percent of the total workforce of 35.1 million. The number of firms using contractual labor, primarily large employers, continued to grow. There were 1,400 public sector unions, slightly fewer than in 2004, with a total membership of over 272 thousand.

Allegations of intimidation and discrimination in connection with union activities are grounds for review before the quasi-judicial National Labor Relations Commission (NLRC) as possible unfair labor practices. However, unions maintained that widespread ignorance of basic standards and rights was a major obstacle to union organization. Before disputes reach the NLRC, the DOLE provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. The DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

The International Confederation of Free Trade Unions (ICFTU) alleged that a new union may be registered only if it represents at least 20 percent of workers in a bargaining unit, and that the law requires an excessively high number of unions--10--before a federation can be formed. The ICFTU currently has two complaints pending before the ILO regarding these requirements.

### b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively. The labor code provides for this right for employees both in the private sector and in government-owned or controlled corporations. A similar right is afforded to most government workers. Approximately 5 percent of the work force was organized. Collective bargaining was practiced; however, it

is subject to hindrance and union leaders may be subject to reprisal. Moreover, an ICFTU report in June noted that collective bargaining in the public sector is limited, and that the right to strike is banned outright for public sector workers. The number of workers covered by collective bargaining agreements rose to approximately 296 thousand or about 16 percent of union members, from 271 thousand in 2004. There are no special laws or exemptions from regular labor laws in special economic zones (SEZs).

Subject to certain procedural restrictions, strikes in the private sector are legal; however, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must have been exhausted. The secretary of labor and employment may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the secretary decides that the industry involved in the strike is vital to national security. From January to November, DOLE reported that there were 26 strikes involving 8,496 workers; in 2004 there were 25 strikes involving approximately 11 thousand workers.

Although the labor code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to three years, there never has been a conviction under this provision.

Trade union officials reported that underpayment of the minimum wage and the use of contract employees to avoid the payment of required benefits were common practices, including in the government-designated SEZs, where tax benefits were used to encourage the growth of export industries. Dismissal or threatened dismissal of union members also was common. Labor groups alleged that companies in the SEZs have used frivolous lawsuits as a means of harassing union leaders.

Labor law applies uniformly throughout the country, including the SEZs; however, local political leaders and officials who govern the SEZs have attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection created further obstacles to the enforcement of workers' rights to organize. DOLE can conduct inspections of local SEZ establishments, although local SEZ directors claimed authority to conduct their own inspections as part of the zones'

privileges intended by Congress. Hiring often was controlled tightly through SEZ labor centers. Union successes in organizing in the SEZs have been few and marginal. In the Subic SEZ, only one firm was unionized. Some mainstream unions declined to mount a major unionizing effort in the lower-wage SEZ industries, such as the garment industry. They considered it unpromising in view of both the organizers' restricted access to the closely guarded zones and the rapid turnover of the young, mainly female staff who worked on short-term contracts in the zones' many electronics and garment factories.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced labor, including forced and compulsory labor by children; however, despite the government's efforts, there were some reports of forced and compulsory labor, particularly by children, mainly in prostitution, drug trafficking, and other areas of the informal sector (see sections 5 and 6.d.). The legal minimum age for employment as a domestic worker is 15. However, an estimated 4 million children 17 years of age or younger, including many under 15, were employed. Some recruiters reportedly brought children to work in Manila or other cities under terms that involved a "loan" advanced to their parents that the children were obliged to repay through their work. The DOLE continued to address the problem of underage workers in family work settings by prosecutions and fines of violators (see sections 5 and 6.d.).

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians, or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 and 18 for such hours and periods of the day as are determined by the secretary of labor but forbids the employment of persons less than 18 years of age in hazardous or dangerous work. However, child labor remained a common problem, and a significant number of children were employed in the informal sector of the urban economy or as unpaid family workers in rural areas--some as bonded laborers (see section 6.c.). The most recent government survey reported approximately 4 million working children, approximately 2.4 million of whom were exposed to hazardous working environments, such as quarries and mines, docksides, and fishing boats, which are defined in the nation's

laws as among the worst forms of child labor. Striking union workers at Macabalan Port in Cagayan de Oro City alleged that laborers hired by the port management company in October to replace the strikers included minors under the age of 17. DOLE's initial inspection did not corroborate the allegation; at year's end DOLE was still investigating.

Most child labor occurred in the informal economy, often in family settings. The government rarely sought to prosecute a poor family because it had a working child. Nevertheless, the government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop other, safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the government made attempts to devote more resources to child labor programs, resources remained inadequate.

The government and NGOs implemented programs to prevent the engagement of children in exploitative child labor; they educated communities on child labor and provided counseling and other activities for children. The DOLE and the DOE worked with NGOs, UNICEF, and the ILO International Program on the Elimination of Child Labor to assist children to return to school. The government also imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. Between January and June, the DOLE continued its efforts to rescue exploited child workers, rescuing 71 minors in 24 different operations, compared with 73 operations involving 195 minors in 2004. The Employers Confederation of the Philippines pursued an active and highly visible program against child labor.

#### e. Acceptable Conditions of Work

The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards set minimum wages and in June implemented wage increases in most regions of the country. The highest rates were in the National Capital Region (NCR), where the minimum daily wage for nonagricultural workers was \$5.90 (P325). Although this represents an increase of 25 pesos over last year, it still did not provide a decent standard of living for a worker and family in the NCR. The lowest minimum wages were in the ARMM, where the daily agricultural wage was \$3.27 (P180). The regional wage board orders covered all private sector workers except domestic servants and others employed in the personal service of another person. Boards exempted some employers because of factors such

as business size, industry sector, export intensity, financial distress, and level of capitalization. These exemptions excluded substantial additional numbers of workers from coverage under the law. Over 80 businesses in Metro Manila requested exemptions from the minimum wage order issued in June. The regional wage boards approved 251 out of 335 employer applications for exemptions during 2003-04. Unions have filed complaints about the minimum wage exemption policies.

Violation of minimum wage standards was common. Many firms hired employees for less than the minimum apprentice rates, even if there was no approved training in their production-line work. During the first quarter of the year, 62 percent of commercial establishments inspected by DOLE were out of compliance with the prevailing minimum wage. The DOLE acknowledged that the shortage of inspectors made the law difficult to enforce. In addition to fines, the government also made use of administrative procedures and moral suasion to encourage employers to voluntarily rectify violations. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

By law the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an 8-hour per day limit. The government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates one day of rest each week. However, there is no legal limit on the number of overtime hours that an employer may require. The DOLE conducted only sporadic inspections to enforce limits on workweek hours. The DOLE's 208 labor inspectors made nearly 21 thousand inspections last year to check on companies' compliance with general labor and working standards.

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with too few inspectors nationwide, local authorities often must carry out enforcement. The DOLE continued a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The government and several NGOs worked to protect the rights of the country's 8.02 million overseas citizens, most of whom were temporary or contract workers. The government placed financial sanctions on and criminal charges against domestic recruiting agencies found guilty of unfair labor practices. Although the POEA registered and supervised domestic recruiters' practices successfully, the authorities sometimes lacked sufficient resources to ensure workers' protection overseas. It sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens.